

SENATE, No. 2098

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 2, 2008

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Senator SEAN T. KEAN

District 11 (Monmouth)

SYNOPSIS

Revises law concerning wine tastings and samplings conducted by certain alcoholic beverage licensees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/14/2008)

1 AN ACT concerning alcoholic beverage tastings and samplings,
2 amending R.S.33:1-12, and supplementing chapter 1 of Title 33
3 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. R.S. 33:1-12 is amended to read as follows:

9 33:1-12 Class C licenses shall be subdivided and classified as
10 follows:

11 Plenary retail consumption license. 1. The holder of this license
12 shall be entitled, subject to rules and regulations, to sell any
13 alcoholic beverages for consumption on the licensed premises by
14 the glass or other open receptacle, and also to sell any alcoholic
15 beverages in original containers for consumption off the licensed
16 premises; but this license shall not be issued to permit the sale of
17 alcoholic beverages in or upon any premises in which a grocery,
18 delicatessen, drug store or other mercantile business is carried on,
19 except as hereinafter provided. The holder of this license shall be
20 permitted to conduct consumer wine, beer, and spirits **[tastings and**
21 **samplings]** tasting and sampling events for a fee or on a
22 complimentary basis pursuant to conditions established by rules and
23 regulations of the Division of Alcoholic Beverage Control,
24 provided, however, that the holder of this licensee complies with
25 the terms and conditions set forth in section 2 of P.L. , c. (C.)
26 (pending before the Legislature as this bill). Subject to such rules
27 and regulations established from time to time by the director, the
28 holder of this license shall be permitted to sell alcoholic beverages
29 in or upon the premises in which any of the following is carried on:
30 the keeping of a hotel or restaurant including the sale of mercantile
31 items incidental thereto as an accommodation to patrons; the sale, at
32 an entertainment facility as defined in R.S.33:1-1, having a seating
33 capacity for no less than 4,000 patrons, of mercantile items
34 traditionally associated with the type of event or program held at
35 the site; the sale of distillers', brewers' and vintners' packaged
36 merchandise prepacked as a unit with other suitable objects as gift
37 items to be sold only as a unit; the sale of novelty wearing apparel
38 identified with the name of the establishment licensed under the
39 provisions of this section; the sale of cigars, cigarettes, packaged
40 crackers, chips, nuts and similar snacks and ice at retail as an
41 accommodation to patrons, or the retail sale of nonalcoholic
42 beverages as accessory beverages to alcoholic beverages; or, in
43 commercial bowling establishments, the retail sale or rental of
44 bowling accessories and the retail sale from vending machines of
45 candy, ice cream and nonalcoholic beverages. The fee for this

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 license shall be fixed by the governing board or body of the
2 municipality in which the licensed premises are situated, by
3 ordinance, at not less than \$250 and not more than \$2,500. No
4 ordinance shall be enacted which shall raise or lower the fee to be
5 charged for this license by more than 20% from that charged in the
6 preceding license year or \$500.00, whichever is the lesser. The
7 governing board or body of each municipality may, by ordinance,
8 enact that no plenary retail consumption license shall be granted
9 within its respective municipality.

10 The holder of this license shall be permitted to obtain a restricted
11 brewery license issued pursuant to subsection 1c. of R.S.33:1-10
12 and to operate a restricted brewery immediately adjoining the
13 licensed premises in accordance with the restrictions set forth in
14 that subsection. All fees related to the issuance of both licenses
15 shall be paid in accordance with statutory law.

16 Seasonal retail consumption license. 2. The holder of this
17 license shall be entitled, subject to rules and regulations, to sell any
18 alcoholic beverages for consumption on the licensed premises by
19 the glass or other open receptacle, and also to sell any alcoholic
20 beverages in original containers for consumption off the licensed
21 premises, during the summer season from May 1 until November
22 14, inclusive, or during the winter season from November 15 until
23 April 30, inclusive; but this license shall not be issued to permit the
24 sale of alcoholic beverages in or upon any premises in which a
25 grocery, delicatessen, drug store or other mercantile business is
26 carried on, except as hereinafter provided. Subject to such rules
27 and regulations established from time to time by the director, the
28 holder of this license shall be permitted to sell alcoholic beverages
29 in or upon the premises in which any of the following is carried on:
30 the keeping of a hotel or restaurant including the sale of mercantile
31 items incidental thereto as an accommodation to patrons; the sale of
32 distillers', brewers' and vintners' packaged merchandise prepacked
33 as a unit with other suitable objects as gift items to be sold only as a
34 unit; the sale of novelty wearing apparel identified with the name of
35 the establishment licensed under the provisions of this section; the
36 sale of cigars, cigarettes, packaged crackers, chips, nuts and similar
37 snacks and ice at retail as an accommodation to patrons; or the retail
38 sale of nonalcoholic beverages as accessory beverages to alcoholic
39 beverages. The fee for this license shall be fixed by the governing
40 board or body of the municipality in which the licensed premises
41 are situated, by ordinance, at 75% of the fee fixed by said board or
42 body for plenary retail consumption licenses. The governing board
43 or body of each municipality may, by ordinance, enact that no
44 seasonal retail consumption license shall be granted within its
45 respective municipality.

46 Plenary retail distribution license. 3. a. The holder of this license
47 shall be entitled, subject to rules and regulations, to sell any
48 alcoholic beverages for consumption off the licensed premises, but

1 only in original containers; except that licensees shall be permitted
2 to conduct consumer wine **[tastings and samplings]** , beer, and
3 spirits tasting and sampling events on a complimentary basis
4 pursuant to conditions established by rules and regulations of the
5 Division of Alcoholic Beverage Control, provided, however, that
6 the holder of this licensee complies with the terms and conditions
7 set forth in section 2 of P.L. _____, c. _____ (C. _____) (pending before the
8 Legislature as this bill)

9 **[(1)patrons are limited to four one-and-one-half ounce samples**
10 **in any 24-hour period;**

11 **(2) samples are not offered to, or allowed to be consumed by,**
12 **any person under the legal age for consuming alcoholic beverages**
13 **or intoxicated person;**

14 **(3) samples are not offered when the sale of alcoholic beverages**
15 **is otherwise prohibited; and**

16 **(4) tastings and samplings are confined to the licensed premises**
17 **and all wine used in the tastings and samplings shall be owned by**
18 **the licensee conducting these tastings and samplings.**

19 Notwithstanding the imposition of any other penalty that may be
20 lawfully imposed, a person who violates paragraphs (1) through (4)
21 of this subsection shall be fined an amount to be established by the
22 division**].**

23 The governing board or body of each municipality may, by
24 ordinance, enact that this license shall not be issued to permit the
25 sale of alcoholic beverages in or upon any premises in which any
26 other mercantile business is carried on, except that any such
27 ordinance, heretofore or hereafter adopted, shall not prohibit the
28 retail sale of distillers', brewers' and vintners' packaged
29 merchandise prepacked as a unit with other suitable objects as gift
30 items to be sold only as a unit; the sale of novelty wearing apparel
31 identified with the name of the establishment licensed under the
32 provisions of this act; cigars, cigarettes, packaged crackers, chips,
33 nuts and similar snacks, ice, and nonalcoholic beverages as
34 accessory beverages to alcoholic beverages. The fee for this license
35 shall be fixed by the governing board or body of the municipality in
36 which the licensed premises are situated, by ordinance, at not less
37 than \$125 and not more than \$2,500. No ordinance shall be enacted
38 which shall raise or lower the fee to be charged for this license by
39 more than 20% from that charged in the preceding license year or
40 \$500.00, whichever is the lesser. The governing board or body of
41 each municipality may, by ordinance, enact that no plenary retail
42 distribution license shall be granted within its respective
43 municipality.

44 Limited retail distribution license. 3. b. The holder of this license
45 shall be entitled, subject to rules and regulations, to sell any
46 unchilled, brewed, malt alcoholic beverages in quantities of not less
47 than 72 fluid ounces for consumption off the licensed premises, but
48 only in original containers; provided, however, that this license

1 shall be issued only for premises operated and conducted by the
2 licensee as a bona fide grocery store, meat market, meat and
3 grocery store, delicatessen, or other type of bona fide food store at
4 which groceries or other foodstuffs are sold at retail; and provided
5 further that this license shall not be issued except for premises at
6 which the sale of groceries or other foodstuffs is the primary and
7 principal business and at which the sale of alcoholic beverages is
8 merely incidental and subordinate thereto. The fee for this license
9 shall be fixed by the governing body or board of the municipality in
10 which the licensed premises are situated, by ordinance, at not less
11 than \$31 and not more than \$63. The governing board or body of
12 each municipality may, by ordinance, enact that no limited retail
13 distribution license shall be granted within its respective
14 municipality.

15 Plenary retail transit license. 4. The holder of this license shall be
16 entitled, subject to rules and regulations, to sell any alcoholic
17 beverages, for consumption only, on railroad trains, airplanes,
18 limousines and boats, while in transit. The fee for this license for
19 use by a railroad or air transport company shall be \$375, for use by
20 the owners of limousines shall be \$31 per vehicle, and for use on a
21 boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat
22 more than 65 feet in length but not more than 110 feet in length,
23 and \$375 on a boat more than 110 feet in length; such boat lengths
24 shall be determined in the manner prescribed by the Bureau of
25 Customs of the United States Government or any federal agency
26 successor thereto for boat measurement in connection with issuance
27 of marine documents. A license issued under this provision to a
28 railroad or air transport company shall cover all railroad cars and
29 planes operated by any such company within the State of New
30 Jersey. A license for a boat or limousine issued under this
31 provision shall apply only to the particular boat or limousine for
32 which issued, and shall permit the purchase of alcoholic beverages
33 for sale or service in a boat or limousine to be made from any Class
34 A and B licensee or from any Class C licensee whose license
35 privilege permits the sale of alcoholic beverages in original
36 containers for off-premises consumption. An interest in a plenary
37 retail transit license issued in accordance with this section shall be
38 excluded in determining the maximum number of retail licenses
39 permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

40 Club license. 5. The holder of this license shall be entitled,
41 subject to rules and regulations, to sell any alcoholic beverages but
42 only for immediate consumption on the licensed premises and only
43 to bona fide club members and their guests. The fee for this license
44 shall be fixed by the governing board or body of the municipality in
45 which the licensed premises are situated, by ordinance, at not less
46 than \$63 and not more than \$188. The governing board or body of
47 each municipality may, by ordinance, enact that no club licenses
48 shall be granted within its respective municipality. Club licenses

1 may be issued only to such corporations, associations and
2 organizations as are operated for benevolent, charitable, fraternal,
3 social, religious, recreational, athletic, or similar purposes, and not
4 for private gain, and which comply with all conditions which may
5 be imposed by the Director of the Division of Alcoholic Beverage
6 Control by rules and regulations.

7 The provisions of section 23 of P.L.2003, c.117 amendatory of
8 this section shall apply to licenses issued or transferred on or after
9 July 1, 2003, and to license renewals commencing on or after July
10 1, 2003.

11 (cf: P.L.2003, c.279, s.1)

12

13 2. (New section) The following terms and conditions shall
14 apply to consumer wine, beer, and spirits tasting and sampling
15 events conducted by the holder of a plenary retail consumption
16 license or plenary retail distribution license:

17 a. Samples shall not be offered to, or allowed to be consumed
18 by, any person under the legal age for consuming alcoholic
19 beverages or an intoxicated person;

20 b. Tasting and sampling events shall not be conducted when the
21 sale of alcoholic beverages is otherwise prohibited;

22 c. Tasting and sampling events shall be confined to the licensed
23 premises;

24 d. In any one calendar day, each patron shall be limited to no
25 more than four one-and-one-half ounce samples of wine; four three
26 ounce samples of beer; or three one-half ounce samples of spirits;

27 e. Suppliers, manufactures, wholesalers, solicitors, or an
28 authorized representative may participate in, assist with, and
29 promote consumer wine, beer, and spirits tasting and sampling
30 events which may be held up to two times per month at the licensed
31 premises, but samples shall not be served by an employee of a
32 wholesaler;

33 f. Wine, beer, and spirits used in the tasting and sampling events
34 shall be owned by the licensee conducting the tasting or sampling
35 event, except that up to 200 samples of wine and beer and 150
36 samples of spirits may be provided by a supplier, manufacturer,
37 wholesaler, solicitor, or an authorized representative, for the
38 purpose of the tasting and sampling event, provided that the
39 supplier, manufacturer, wholesaler, solicitor, or authorized
40 representative removes any unfinished alcoholic beverage
41 containers not supplied by the licensee from the licensed premises
42 when the tasting and sampling event is completed;

43 g. Tasting and sampling events shall be open to the general
44 public and shall not be limited by invitation;

45 h. Tasting and sampling events may be advertised in any type of
46 media, including, but not limited to, print, radio, television,
47 Internet, and signs, and these advertisements may include the date,
48 time, and location of the event;

1 i. A supplier, manufacturer, wholesaler, solicitor, or authorized
2 representative may provide the licensee upon whose premises the
3 tasting and sampling event will take place with permissible
4 advertising and promotional materials for use at the event and
5 permissible consumer novelties for distribution to the patrons
6 attending the event; and

7 j. Any type of food may be served at a tasting and sampling
8 event.

9 Notwithstanding the imposition of any other penalty that may be
10 lawfully imposed, a person who violates subsections a. through j. of
11 this section shall be fined an amount to be established by the
12 director.

13
14 3. This act shall take effect on the first day of the fourth month
15 after enactment.

16
17
18 STATEMENT

19
20 This bill would revise the law governing consumer wine, beer,
21 and spirits tastings and samplings conducted by alcoholic beverage
22 licensees. Under the bill, “tastings and samplings” would be
23 changed to “tasting and sampling events.”

24 Current law permits plenary retail consumption licensees (hotels,
25 restaurants, and taverns) to conduct consumer tastings and
26 samplings of wine, beer, and spirits for a fee or on a complimentary
27 basis pursuant to conditions established by rules and regulations of
28 the Division of Alcoholic Beverage Control (ABC). These
29 regulations limit the amount of the sample to five ounces of beer
30 and one-and-one-half ounce of wine or a distilled spirit.

31 Current law also permits plenary retail distribution licensees
32 (package goods stores) to conduct wine, but not beer and spirits,
33 tastings and samplings on a complimentary basis pursuant to
34 conditions established by rules and regulations of the ABC,
35 provided (1) patrons are limited to four one-and-one-half ounce
36 samples in any one 24-hour period; (2) samples are not offered to,
37 or allowed to be consumed by, any minor or intoxicated person; (3)
38 samples are not offered when the sale of alcoholic beverages is
39 otherwise prohibited; and (4) tastings and samplings are confined to
40 the licensed premises.

41 Under the bill, both plenary retail consumption licensees and
42 plenary retail distribution licensees would be authorized to conduct
43 wine, beer, and spirits tasting and sampling events. These licensees
44 would be subject to the same statutory conditions as follows:

45 (1) licensees would be prohibited from offering or allowing
46 samples to be consumed by underaged or intoxicated persons;

47 (2) the events could only be held when the sale of alcoholic
48 beverages is authorized;

1 (3) the events must be held on the licensed premises;

2 (4) patrons would be limited in any one calendar day to no more
3 than four one-and-one-half ounce samples of wine; four three-ounce
4 samples of beer; or three one-half ounces samples of spirits;

5 (5) suppliers, manufacturers, wholesalers, solicitors, or
6 authorized representatives may participate in, assist with, and
7 promote the events, which may be held up to two times per month
8 at the licensed premises, but wholesaler employees are prohibited
9 from serving the samples.

10 (6) the wine, beer, and spirits used in the event must be owned
11 by the licensee or up to 200 samples of wine and beer and 150
12 samples of spirits may be provided by a supplier, manufacturer,
13 wholesaler, solicitor, or authorized representative, for the purpose
14 of the event, but only if the supplier, manufacturer, wholesaler,
15 solicitor, or authorized representative removes any unfinished
16 alcoholic beverage containers not supplied by the licensee from the
17 licensed premises when the event is completed;

18 (7) the event must be open to the general public and not be
19 limited by invitation;

20 (8) the event may be advertised in any type of media, including,
21 but not limited to, print, radio, television, Internet, and signs, and
22 these advertisements may include the date, time, and location of the
23 event, such as the name and address of the licensed premises and
24 other information regarding the event;

25 (9) suppliers, manufacturers, wholesalers, solicitors, or
26 authorized representatives may provide the licensee with
27 permissible advertising and promotional materials for use at the
28 event and permissible consumer novelties for distribution to the
29 patrons attending the event; and

30 (10) any type of food may be served at the event.

31 Violations of the bill's provisions would be punishable by a fine
32 determined by the Director of the ABC.

33 It is the sponsor's understanding that Broad C licensees with a
34 broad-package privilege hold a plenary retail consumption license
35 and therefore, these licensees would be permitted under the bill to
36 conduct wine, beer, and spirits tasting and sampling events subject
37 to the terms and conditions outlined in the bill.